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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/884,638 | 06/19/2001 | Thomas E. Ricciardelli | 2601.102 | 4310 |

7590 01/30/2004

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EXAMINER

A, PHI DIEU TRAN

| ART UNIT | PAPER NUMBER |
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3637

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,638

Applicant(s)

RICCIARDELLI, THOMAS E.

Examiner

Phi D A

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-35 is/are pending in the application.
- 4a) Of the above claim(s) 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Election/Restrictions

1. Newly submitted claim 35 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the method claim has steps with limitations which are not required of the article claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 35 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 30-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 30 line 11 “and inwardly of respective ones ...edge” is not supported by the specification. The interlock structure which contains the male projection is right on the edge and not inwardly of the edges as disclosed.

The claims are examined as best understood to have the interlock structure with the male projection right on the edge.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austin (5907934) in view of Costantino (6119423).

Austin (figure 3) shows a floor tile assembly having a plurality of mutually adjacent tiles (80) composed of a substantially resilient plastic material (col 1 lines 24-26) and mechanically interlocked along the side and end edges thereof for adhesively free mounting to an underlying surface, each of the tiles having an elongated base of substantially solid rectangular cross section of substantially equal width and thickness (figure 5) and having a longitudinal axis, an upwardly facing top and a downwardly facing bottom surface (figure 5) and first and second substantially linear peripheral edges forming substantially straight borders (80, figure 3), first and second rows of open sided substantially resilient interlock structures (93, 95) molded on the base extending parallel to and adjacent to respective ones of the first and second edges, the interlock structures of each first row facing opposite upward or downward respective directions from those of the second row and being comprised of male projections (95) and a contiguous female cavity (93) partially formed by a sidewall portion (the part of the male projection that extends to the cavity 93) of the male projection and shaped substantially as inverted images of one another, the open side of the interlock structure adjacent the first side edge facing the bottom surface disposed to

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engage a mating inverted interlock structure of another adjacent tile (figure 3) from the top of the base.

Austin does not show a plurality of transverse stepped end edges longitudinally spaced from one another formed on opposite ends of the base, the base ends being staggered in the longitudinal direction, the first and second rows of the structures respectively oriented at substantially right angles adjacent to the staggered ends of the tile.

Costantino (figure 6A) shows a plurality of stepped end edges longitudinally spaced from one another formed on opposite ends of the base, the ends being staggered in the longitudinal direction, the first and second rows of the structures respectively oriented at substantially right angles adjacent to the staggered ends of the tile to enable forming a floor surface with different pleasing visual effect.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Austin to show a plurality of transverse stepped end edges longitudinally spaced from one another formed on opposite ends of the base, the base ends being staggered in the longitudinal direction, the first and second rows of the structures respectively oriented at substantially right angles adjacent to the staggered ends of the tile because it would enhance the visual surface of the tile by giving the surface the effect of multiple wood floor planks being assembly together as taught by Costantino.

Per claim 32, Austin as modified by Costantino shows the transversely stepped end surface on each tile being formed by a staircase of individual steps, each step having longitudinal and transverse intersecting portions to simulate transverse staggering between individual boards of a wood floor.

Per claim 33, Austin as modified by Costantino (figure 6A) shows the step staircases being positioned inverted relative to a central plane through a said base and perpendicular to the longitudinal axis, each step having a longitudinally disposed diagonal counterpart step on an opposite base end.

Per claim 34, Austin as modified by Costantino shows a plurality of top longitudinal grooves, each groove aligning with a longitudinal portion of a step and its opposite counterpart to simulate longitudinally abutting edges of boards of a wood floor.

3. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Austin (5907934) in view of Costantino (6119423) as applied to claim 30 above and further in view of Ormiston (5755068).

Austin as modified by Costantino shows all the claimed limitations except for a decorative layer adhering to the top surface of each tile simulating a section of a wood floor.

Ormiston (figure 2) shows a decorative layer adhering to the top surface of each tile (12) simulating a section a wood floor to enhance the appearance of the floor.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Austin's modified structure to show a decorative layer adhering to the top surface of each tile simulating a section of a wood floor because it would enhance the appearance of the floor as taught by Ormiston.

Response to Arguments

4. Applicant's arguments with respect to claims 30-34 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior shows different tile designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A
January 26, 2004